## UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DIMITRITZA H. TOROMANOVA,

Plaintiff

v.

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FIRST AMERICAN TRUSTEE SERVICING SOLUCTIONS LLC, et al.,

**Defendants** 

Case No.: 2:18-cv-01482-APG-VCF

**Order Overruling Objection** 

[ECF No. 37]

Plaintiff Dimitritza Toromanova objects to Magistrate Judge Ferenbach's order denying her motion to extend time. ECF Nos. 36, 37. She contends she did not consent to a magistrate 11 judge hearing her case and there is no order on the docket expressly referring motions to the 12 magistrate judge. She also contends that Judge Ferenbach erred by denying her motion to extend 13 time because it was unopposed and he did not cite authority to support his ruling that a reply would not serve any purpose.

I overrule Toromanova's objection because she is incorrect in her assertion that 16 Magistrate Judge Ferenbach cannot issue valid orders in this case. Magistrate judges may "hear and determine any pretrial matter pending before the court," "conduct hearings, including 18 evidentiary hearings," and submit "proposed findings of fact and recommendations" to the 19 assigned district judge for dispositive matters. 28 U.S.C. § 636(b)(1); see also Fed. R. Civ. P. 72 (distinguishing between non-dispositive and dispositive pretrial matters); S.E.C. v. CMKM Diamonds, Inc., 729 F.3d 1248, 1259-60 (9th Cir. 2013) (district judges "may designate a magistrate judge to hear any nondispositive pretrial matter pending before the court" (quotation 23 omitted)). Magistrate judges may also be assigned additional duties, which may vary from

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district to district, and may also vary between district judges. See 28 U.S.C. § 636(b)(3), (4). In the District of Nevada, magistrate judges are utilized to the full extent of their statutory authority, and exercise general supervision of civil and criminal calendars, conduct pretrial conferences, proceedings, and settlement conferences in civil and criminal cases, and conduct early neutral evaluations in employment discrimination actions. See LR IB 1-7; LR 16-6.

This District has an automatic referral system that determines which motions and proceedings are decided by a magistrate judge and which motions and proceedings are decided by a district judge. I will hear and decide dispositive motions. Judge Ferenbach will automatically be referred most motions addressing case management, pretrial nondispositive motions, and discovery-related motions. I caution Toromanova that failure to abide by Judge Ferenbach's or my orders may result in sanctions, including monetary or case-ending sanctions.

As for whether Judge Ferenbach erred in denying her motion to extend time, I review that decision under the "clearly erroneous or contrary to law" standard. 28 U.S.C. § 636(b)(1)(A); see also Fed. R. Civ. P. 72(a); LR IB 3-1(a) ("A district judge may reconsider any pretrial matter 15 referred to a magistrate judge in a civil or criminal case pursuant to LR IB 1-3, where it has been 16 shown that the magistrate judge's ruling is clearly erroneous or contrary to law."). A magistrate 17 judge's order is "clearly erroneous" if the court has "a definite and firm conviction that a mistake has been committed." United States v. U.S. Gypsum Co., 333 U.S. 364, 395 (1948). "An order is contrary to law when it fails to apply or misapplies relevant statutes, case law, or rules of procedure." Jadwin v. Cty. of Kern, 767 F. Supp. 2d 1069, 1110-11 (E.D. Cal. 2011) (quotation omitted). I may not substitute my judgment for that of the Magistrate Judge. Grimes v. City & Cty. of San Francisco, 951 F.2d 236, 241 (9th Cir. 1991).

Judge Ferenbach's order was not clearly erroneous or contrary to law. He advised
Toromanova that if she wanted to amend, she should do so pursuant to Federal Rule of Civil
Procedure 15. Nothing in her reply would have changed that she was attempting to amend her
complaint through an inapplicable rule, nor does she suggest anything in her reply would have
changed that result.

6 IT IS THEREFORE ORDERED that plaintiff Dimitritza Toromanova's objection (ECF 7 No. 37) is OVERRULED.

DATED this 2nd day of May, 2019.

ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE